

determining if the device unintentionally emits EMI in one or more regions of an electromagnetic spectrum occupied by other users, and of reducing the EMI in the one or more regions, and increasing the EMI in one or more other regions if the circuitry determines that the device unintentionally emits EMI in one or more regions of an electromagnetic spectrum occupied by other users.

19. (Currently Amended) The apparatus of claim 18, wherein the device unintentionally emits EMI in one or more regions of a radio frequency spectrum occupied by licensed users of the radio frequency spectrum, and said circuitry is additionally capable of increasing the EMI in one or more other regions of the radio frequency spectrum unoccupied by the licensed users of the radio frequency spectrum.
20. (Original) The apparatus of claim 16, wherein said circuitry is additionally capable of: determining a presence of other users at the device's location; and determining the one or more regions of the electromagnetic spectrum occupied by the other users at the location.
21. (Original) The apparatus of claim 20, wherein said circuitry is additionally capable of: determining a location of the device; and accessing a database of users at the location.
- 22-30. (Canceled)

#### REMARKS

Claims 1-30 were pending in the application. Claims 1-8 and 16-21 have been rejected under 35 U.S.C. §102(e) as being deemed anticipated by U.S. Patent No. 7,106,833 (Kerper). Non-elected Claims 9-15 and 22-30 have been canceled as requested by the Office Action. Of the Claims, Claims 1 and 16 are independent. Claims have been amended to clarify the Applicants' invention. The application as amended and argued herein, is believed to overcome the rejections.

Application No.: 10.692,965  
Attorney Docket No.: P17150

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Examiner: Thuan T. Nguyen  
Art Unit: 2618

Regarding Rejections under 35 U.S.C. § 102(e)

Claims 1-8 and 16-21 have been rejected under 35 U.S.C. §102(e) as being deemed anticipated by U.S. Patent No. 7,106,833 (Kerper).

Cited prior art Kerpez discusses optimizing DSL lines transmitting in the same cable on an individual basis in order to maximize the overall throughput in a cable. (See col. 3, lines 30 to col. 4 line 38.)

Kerpez does not teach or suggest at least:

“increasing the EMI in one or more other regions of the electromagnetic spectrum that are unoccupied by the other users.”

as claimed by the Applicant in Claim 1.

In contrast, the system discussed by Kerpez merely discusses reducing or eliminating measured EMI noise electronically or physically through the use of shielded cable. (See, col. 9, lines 27-45.) In contrast, Kerpez merely discusses reducing the received EMI through physical remediation (adding additional shielding to the cable) or electronic remediation (subtracting an estimate of the EMI from the received signal and noise.) (See col. 9, lines 27-45.)

Furthermore, Kerpez does not even teach or suggest whether the device emits EMI “in one or more regions of an electromagnetic spectrum occupied by others” as claimed by the Applicant in Claim 1. In contrast Kerpez merely discusses the reduction or elimination of any detected EMI irrespective as to whether it is in one or more regions of an electromagnetic spectrum occupied by others.

Claims 2-8 are dependent claims that depend directly or indirectly on claim 1, which has been shown to be distinguished over the cited art. Independent claim 16 recites a like distinction and is thus distinguished over the cited art. Claims 17-21 depend directly or indirectly on claim 16 and are thus distinguished over the cited reference.

Accordingly, the present invention as now claimed is not believed to be anticipated by the cited reference. Removal of the rejections under 35 U.S.C. § 102(e) and acceptance of claims 1-8 and 16-21 is respectfully requested.

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CONCLUSION

In view of the foregoing, it is submitted that all claims (claims 1-8 and 16-21) are in condition of allowance. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the above-referenced application.

Please charge any shortages and credit any overcharges to Deposit Account Number 50-0221.

Respectfully submitted,

Date: February 26, 2007

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